

VZCZCXRO2761
OO RUEHCHI RUEHCN RUEHDT RUEHHM
DE RUEHJA #1742 2590806
ZNR UUUUU ZZH
O 150806Z SEP 08
FM AMEMBASSY JAKARTA
TO RUEHC/SECSTATE WASHDC IMMEDIATE 0082
INFO RUEHZS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS PRIORITY
RUEHGV/USMISSION GENEVA PRIORITY 7828
RUEHBY/AMEMBASSY CANBERRA 3027
RUEHLM/AMEMBASSY COLOMBO 1291
RUEHKA/AMEMBASSY DHAKA 1261
RUEHNE/AMEMBASSY NEW DELHI 2226
RUEHKO/AMEMBASSY TOKYO 2486
RUEHWL/AMEMBASSY WELLINGTON 3064
RUEHHK/AMCONSUL HONG KONG 2965
RUEHPT/AMCONSUL PERTH 1129
RHMFIUU/BUMED WASHINGTON DC
RHHJJPI/USPACOM HONOLULU HI
RUEKJCS/SECDEF WASHDC
RUENAAA/SECNAV WASHDC
RUEAWJB/DEPT OF JUSTICE WASHDC
RULSAV/NAVMEDEDRSCHCEN SILVER SPRING MD
RHEHNSC/NSC WASHDC
RUEAIIA/CIA WASHDC
RHEFDIA/DIA WASHINGTON DC

UNCLAS JAKARTA 001742

SENSITIVE
SIPDIS

DEPT FOR P, EAP, EAP/MTS, EAP/MLS, EAP/RSP, G/AIAG,
OES/IHA, L, L/DL FOR DICKERSON
USAID FOR ANE/CLEMENTS AND GH/CARROLL
DEPT PASS TO HHS/WSTEIGER/ABHAT/MSTLOUIS AND HHS/NIH
DEPT PASS TO USDA/FAS/OSTA BRANT, ROSENBLUM
DOJ FOR OFL/HOLLIS
DOJ FOR OFL/HERRUP
GENEVA FOR WHO/HOHMAN
NSC FOR E.PHU
SECDEF FOR USDP/ISA/APSA D.WALTON

E.O. 12958: N/A

TAGS: [PGOV](#) [TBIO](#) [KFLU](#) [KLIQ](#) [ID](#)

SUBJECT: AVIAN INFLUENZA LAWSUIT AGAINST USG: IMMUNITY
LETTER DELIVERED TO DEPLU

REF: JAKARTA 1676 AND PREVIOUS

1. (SBU) On September 15, poloff delivered to the Indonesian Department of Foreign Affairs (DEPLU) the Department of Justice (DOJ) memorandum on the Application the Law of Foreign State Immunity: Sarmili v. World Health Organization and United States of America and the letter addressed to the court summarizing the attached memorandum under cover of diplomatic note. The letter and memorandum, explaining the basis for sovereign immunity in international law, were delivered in English and Indonesian. Emboffs subsequently received confirmation that all documentation had been delivered to the court.

2. (SBU) During the delivery of the letter and memorandum to DEPLU, Emboffs met with Arif Havas Oegroseno, Director of DEPLU's Office of Political, Legal and Regional Treaties, and his assistant, Cahyo Muzhar. Muzhar said that he was drafting the legal opinion from DEPLU to submit along with the USG documents to the court. He reiterated that Oegroseno had discussed the case with the court and believes he made progress with the judges.

3. (SBU) Oegroseno and Muzhar recommended that neither the USG nor its agent appear at the September 17 proceedings. Muzhar stated that he might send a member of DEPLU's staff to monitor the proceedings.

4. (SBU) Muzhar also stated that DEPLU considers the summons dated June 12, 2008, to be the second summons rather than the

third summons. If the court agrees that the June 12 summons is the second summons, there may be a third summons for a court date in November. Muzhar elaborated that the plaintiff seemed reluctant to pay the court fees for the delivery of the third summons. He indicated that if the court required an expert witness to testify on Foreign State Immunity, DEPLU's Arif Havas Oegroseno would consider serving as the expert witness.

HUME